

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CV-680-D

JIMMY EARP and PATRICIA EARP,)
)
 Plaintiffs,)
)
 v.)
)
NOVARTIS PHARMACEUTICALS)
CORPORATION,)
)
 Defendant.)

ORDER

On September 11, 2013, the court granted in part and denied in part Novartis Pharmaceuticals Corporation's ("Novartis") motions to exclude expert testimony, including Novartis's motion to exclude the testimony of Professor Wayne Ray. [D.E. 100] 7; see [D.E. 76]. The court did not discuss Novartis's motion to exclude the testimony of Professor Ray in the text of its order. On March 14, 2014, Novartis filed a motion for clarification of the court's September 11, 2013 order, and asks the court to specify its rulings on each of its asserted challenges to Professor Ray's testimony [D.E. 109].

Professor Ray is a qualified expert and has a reliable basis to offer testimony regarding general causation. The court will permit Professor Ray to testify about the relative risk and attributable risk of developing osteonecrosis of the jaw ("ONJ") through the use of intravenous bisphosphonate ("IV BP") drugs (Table 5 meta-analysis), causation based on his Bradford-Hill analysis, and causation based on case and adverse event ("AE") reports, including those reports he has not personally reviewed. The court also will permit Professor Ray to opine that it is biologically plausible that IV BP drugs increase the risk of ONJ, that approximately 5% of patients receiving IV

BP drugs develop ONJ, and that Novartis could have concluded in 2003 that IV BP drugs cause ONJ. The court will not, however, permit Professor Ray to opine that there is a higher risk of developing ONJ through the use of Zometa than through the use of Aredia (Table 6 meta-analysis), or opine that ONJ is not “rare” in cancer patients treated with IV BP drugs.

SO ORDERED. This 9 day of April 2014.


JAMES C. DEVER III
Chief United States District Judge